

Serial: 133882

IN THE SUPREME COURT OF MISSISSIPPI

No. 2005-CA-01180-SCT

*MELVIN BREWER*

*Appellant*

v.

*SIDNEY H. RAPER*

*Appellee*

**ORDER**

This matter came before this Court, sitting en banc, to consider whether this appeal should be dismissed for failure to comply with the requirements of M.R.C.P. 54(b) for certification. The record provides that a partial summary judgment was granted by the Circuit Court of Tallahatchie County, Mississippi, in favor of Sidney Raper against Melvin Brewer. The Appellant, Brewer, filed a motion for Rule 54(b) certification. However, a review of the record provides that Brewer never obtained an order from the circuit court granting the required Rule 54(b) certification in this case. Accordingly, we find that Brewer's appeal is not properly before this Court and should be dismissed.

IT IS THEREFORE ORDERED that this appeal is hereby dismissed for failure to obtain an order of certification from the circuit court pursuant to M.R.C.P. 54(b). Brewer is taxed with costs of appeal.

IT IS FURTHER ORDERED that the Appellant's motion to strike certain statements from the Appellee's statement of facts is moot and hereby denied.

SO ORDERED, this the 6<sup>th</sup> day of September, 2006.

/s/ Chuck Easley

CHUCK EASLEY, JUSTICE